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Attorneys for Defendant
HEWLETT-PACKARD COMPANY

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CARL K. RICH, et al.,

Plaintiffs,

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants.

CASE NO. C 06 03361-JF (HRL)

**JOINT STIPULATION REQUESTING
FURTHER MODIFICATION OF HEARING
AND BRIEFING SCHEDULE FOR
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION AND RESCHEDULING
OF CASE MANAGEMENT CONFERENCE;
DECLARATION OF COUNSEL; AND
[PROPOSED] ORDER GRANTING
STIPULATION**

Counsel for Plaintiffs Carl Rich and David Duran ("Plaintiffs") and counsel for Defendant Hewlett-Packard Company ("HP"), in support of their Joint Stipulation and [Proposed] Order Requesting Further Modification of Hearing and Briefing Schedule for Plaintiffs' Motion for Class Certification and Rescheduling of Case Management Conference, state as follows:

1. At the Case Management Conference held on November 30, 2007, the Court set hearing on Plaintiffs' motion for class certification for May 8, 2009. Upon the parties' stipulated requests, the Court ordered further modifications to this schedule. (Docket Nos. 57, 60, 75.)

Pursuant to the current schedule, Plaintiffs filed their motion for class certification and expert report on June 23, 2009, Defendant's opposition papers and expert reports are due November 5, 2009, Plaintiffs' reply papers are due December 9, 2009, and the hearing on the motion is set for January 8, 2010. By Order dated September 14, 2009, upon further stipulation of the parties, the Court rescheduled the Case Management Conference from September 18, 2009, at 10:30 a.m., to January 8, 2010, so that this conference would immediately follow the hearing on Plaintiffs' motion for class certification. *See* Order Granting Joint Stipulation Requesting Rescheduling of Case Management Conference; Declaration of Counsel (Docket No. 77).

2. Due to the parties' ongoing discussions and attempt to mediate their differences and the additional time required by Plaintiffs' counsel to produce documents related to their expert report, the parties request another extension of approximately thirty days for all dates associated with Plaintiffs' motion for class certification. The dates to which the parties have agreed, subject to the Court's approval, are as follows: (a) December 7, 2009, for HP to file its opposition to Plaintiffs' motion for class certification and its expert report(s); (b) January 11, 2010, for Plaintiffs to file their reply papers; and (c) February 5, 2010, at 9:00 a.m., for the hearing on Plaintiffs' motion and the Case Management Conference, or such alternative date and time as the Court may select.

3. In addition, the Court previously ordered that, on account of the complexity of the issues to be decided on class certification, the page limit requirements contained in Civil Local Rule 7-3(a) be increased to 35 pages for HP's opposition. *See* Order Granting Stipulation Requesting Modification of Hearing and Briefing Schedule Re: Motion for Class Certification (Docket No. 57).

4. Pursuant to Civil Local Rule 6-2, a date of an event or deadline already fixed by Court order may be enlarged or changed if the parties so stipulate; the stipulation is accompanied by a declaration addressing the reasons for the requested change, previous time modifications, and the effect that the requested time modification would have on the schedule set for the case; and the parties obtain an order from the Court approving the requested enlargement of time.

5. A declaration of counsel providing the information required by Civil Local Rule 6-2 follows this Stipulation.

6. At the present time there are no other pending motions before the court, although HP reserves the right to file a motion for summary judgment on the claims of any individually named plaintiff at any time prior to the last day to file dispositive motions, and to notice the hearing of such motion on or before the date set for hearing Plaintiffs' motion for class certification.

7. Therefore, the parties through their counsel respectfully request that the Court enter an order vacating the current hearing date for Plaintiffs' motion for class certification, and setting the following new schedule: (a) HP's opposition papers (and expert reports) are to be filed and served no later than December 7, 2009; (b) Plaintiffs' reply papers are to be filed and served no later than January 11, 2010; and (c) the hearing on Plaintiffs' motion for class certification is set for February 5, 2010, or such alternative date as the Court may select. The parties further respectfully request that the Case Management Conference be rescheduled to follow the hearing on Plaintiffs' motion for class certification on February 5, 2010, or such alternative date as the Court may select.

IT IS SO STIPULATED.

DATED: October 13, 2009

COTCHETT, PITRE & MCCARTHY

By: /s/ Justin T. Berger*

Attorneys for Plaintiffs CARL RICH and DAVID DURAN

DATED: October 13, 2009

GIBSON, DUNN & CRUTCHER LLP
PETER SULLIVAN
SAMUEL G. LIVERSIDGE
CHRISTOPHER CHORBA

By: /s/ Christopher Chorba*

Attorneys for Defendant HEWLETT-PACKARD COMPANY

*I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this efiled document.

1 **DECLARATION OF CHRISTOPHER CHORBA IN SUPPORT OF STIPULATION**

2 1. I, Christopher Chorba, am an attorney admitted to practice before this Court and all
3 courts of the State of California. I am an associate attorney in the law firm of Gibson, Dunn &
4 Crutcher LLP, attorneys of record for Defendant Hewlett-Packard Company ("HP"). I make this
5 declaration in support of the Joint Stipulation and [Proposed] Order Requesting Further Modification
6 of Hearing and Briefing Schedule for Plaintiffs' Motion for Class Certification and Rescheduling of
7 Case Management Conference. I have personal knowledge of the facts stated herein, and, if called as
8 a witness, I could and would testify competently to those facts.

9 2. At the Case Management Conference held on November 30, 2007, the Court set
10 hearing on Plaintiffs' motion for class certification for May 8, 2009. Upon the parties' stipulations,
11 the Court has continued these deadlines several times:

12 (a) Upon stipulation of the parties filed January 15, 2009, the Court moved the hearing on
13 Plaintiffs' motion for class certification to September 19, 2009, and set the following deadlines for
14 briefing on the motion: April 23, 2009, for Plaintiffs' moving papers; July 22, 2009, for HP's
15 opposition; and August 26, 2009, for Plaintiffs' reply papers. *See* Order Granting Stipulation
16 Requesting Modification of Hearing and Briefing Schedule Re: Motion for Class Certification
17 (Docket No. 57).

18 (b) Upon further stipulation of the parties filed April 23, 2009, the Court moved the
19 hearing on Plaintiffs' motion for class certification to November 20, 2009, and set the following
20 deadlines for briefing on the motion: June 23, 2009, for Plaintiffs' moving papers; September 22,
21 2009, for HP's opposition; and October 26, 2009, for Plaintiffs' reply papers. *See* Order Granting
22 Stipulation Requesting Further Modification of Hearing and Briefing Schedule Re: Motion for Class
23 Certification (Docket No. 60).

24 (c) Thereafter, by Order dated August 13, 2009, upon the parties' further stipulated
25 request filed August 12, 2009, the Court continued the hearing on Plaintiffs' motion to January 8,
26 2010, and set the following briefing deadlines: November 5, 2009, for Defendant's opposition papers
27 and expert reports; and December 9, 2009 for Plaintiffs' reply papers. *See* Order Granting Joint

1 Stipulation Requesting Further Modification of Hearing and Briefing Schedule for Plaintiffs' Motion
2 for Class Certification; Declaration of Counsel (Docket No. 75).

3 (d) In addition, by Order dated September 14, 2009, upon further stipulation of the parties
4 filed September 10, 2009, the Court rescheduled the Case Management Conference from September
5 18, 2009, at 10:30 a.m., to January 8, 2010, immediately following the hearing on Plaintiffs' motion
6 for class certification. *See* Order Granting Joint Stipulation Requesting Rescheduling of Case
7 Management Conference; Declaration of Counsel (Docket No. 77).

8 3. The parties remain involved in ongoing discussions and an attempt to mediate their
9 differences, and it is the desire of both parties to continue focusing on these efforts and bring them to
10 a resolution before briefing Plaintiffs' motion for class certification, which may be ultimately
11 unnecessary if the parties are able to resolve their dispute. In addition, Plaintiffs' counsel has
12 required additional time to produce documents related to their expert report. HP served its document
13 requests related to Plaintiffs' expert report on July 8, 2009, and agreed to a thirty-day extension for
14 Plaintiffs' written responses. Plaintiffs served their written responses on September 21, 2009, and
15 they have not yet produced documents in response to these requests.

16 4. Accordingly, the parties have agreed to an extension of approximately thirty days for
17 all dates associated with Plaintiffs' motion for class certification. The dates to which the parties have
18 agreed, subject to the Court's approval, are as follows: (a) HP's opposition papers (and expert
19 reports) are to be filed and served no later than December 7, 2009; (b) Plaintiffs' reply papers are to
20 be filed and served no later than January 11, 2010; and (c) the hearing on Plaintiffs' motion for class
21 certification is set for February 5, 2010, or such alternative date as the Court may select. The parties
22 have further agreed and respectfully submit that it would be more efficient to have the Case
23 Management Conference follow the hearing on Plaintiffs' motion for class certification on February
24 5, 2010, or such alternative date as the Court may select.

25 5. The original complaint was filed on May 22, 2006. There have been several
26 continuances since then, in addition to the extensions referenced in paragraph 2. By stipulation filed
27 in June 2006, HP's deadline for filing a responsive pleading was extended. On August 31, 2006, the
28

1 Court approved the parties' stipulated request to continue the initial case management conference.
2 On October 10, 2006, the Court approved the parties' stipulated request to further continue the initial
3 case management conference, and to extend deadlines to complete the ADR process and for HP to
4 respond to Plaintiffs' First Amended Complaint. The case management conference was subsequently
5 further continued to March 9, 2007. After dismissal of the First Amended Complaint, with leave to
6 amend, Plaintiffs filed a Second Amended Complaint, and stipulated to an extension of time for HP
7 to respond thereto.

8 6. As discussed above in paragraph 2, the parties have sought and received three prior
9 extensions to the deadlines for Plaintiffs' motion for class certification.

10 7. The Court has not set any dates other than that for hearing on Plaintiffs' motion for
11 class certification and the Case Management Conference, both currently scheduled for January 8,
12 2010. Therefore, granting the time modification and rescheduling as requested in the parties'
13 stipulation will not require extensions to any other deadlines.

14 I declare under penalty of perjury under the laws of the United States that the foregoing is true
15 and correct.

16 Executed at Los Angeles, California, on October 13, 2009.

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18 By: /s/ Christopher Chorba*

19 *I hereby attest that I have on file all holograph
20 signatures for any signatures indicated by a
21 "conformed" signature (/s/) within this efiled document.
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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 CARL K. RICH, et al.,

14 Plaintiffs,

15 v.

16 HEWLETT-PACKARD COMPANY, et al.,

17 Defendants.

CASE NO. C 06 03361-JF (HRL)

**~~PROPOSED~~ ORDER GRANTING JOINT
STIPULATION REQUESTING FURTHER
MODIFICATION OF HEARING AND
BRIEFING SCHEDULE FOR PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION
AND RESCHEDULING OF CASE
MANAGEMENT CONFERENCE**

18
19 The Court having reviewed the parties' stipulation and the accompanying declaration of
20 counsel to further modify the hearing and briefing schedule for Plaintiffs' motion for class
21 certification and reschedule the Case Management Conference, and having found good cause shown,
22 IT IS ORDERED as follows:

23 The Court VACATES the current hearing date of January 8, 2010, for Plaintiffs' motion for
24 class certification. The Court sets the following new schedule with respect to Plaintiffs' motion:
25 Defendant's opposition papers and expert reports are to be filed and served no later than December 7,
26 2009; Plaintiffs' reply papers are to be filed and served no later than January 11, 2010; and the
27 hearing on Plaintiffs' motion for class certification is set for February 5, 2010, at 9:00 a.m.
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1 The Court further reschedules the Case Management Conference from January 8, 2010, to
2 February 5, 2010, immediately following the hearing on Plaintiffs' motion for class certification.

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4 **IT IS SO ORDERED.**

5 Date: 10/22/2009

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HONORABLE JEROME FOGEL
UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I, Dhananjay S. Manthripragada, declare as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 333 South Grand Avenue, Los Angeles, CA 90071 in said County and State.

I hereby certify that on October 13, 2009, the following documents were electronically transmitted to the Clerk of the Court using the CM/ECF System: **JOINT STIPULATION REQUESTING FURTHER MODIFICATION OF HEARING AND BRIEFING SCHEDULE FOR PLAINTIFFS' MOTION FOR CLASS CERTIFICATION AND RESCHEDULING OF CASE MANAGEMENT CONFERENCE; DECLARATION OF COUNSEL; AND [PROPOSED] ORDER GRANTING STIPULATION.** I further certify that copies of the foregoing documents were transmitted on October 13, 2009, via e-mail to each of the persons named on the attached Service List. I caused each such document to be transmitted by PDF Format, to the parties and e-mail addresses indicated on the attached Service List.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: October 13, 2009

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Dhananjay S. Manthripragada*

Attorneys for Defendant HEWLETT-PACKARD
COMPANY

*I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this efiled document.

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